IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

NOTICE OF MOTION NO.3184 OF 2005
IN
SUMMARY SUIT NO.1264 OF 2004

ALONG WITH
SUMMONS FOR JUDGMENT NO.417 OF 2004

Vibha Devansh Shah — Plaintiffs
vs.
Pooja Harendra Dalal & anr. — Defendants

Mr.R.V.Rajeshwari i/b.M/s.Lega Apex for the plaintiffs.

Mr.Simir Purohit i/b. Kishore Thakordas for the defendants.

CORAM : S.U. KAMDAR,J.

DATED : 24th October 2005

P.C.

By consent of the parties, motion is placed on board for hearing and final disposal and called out.

2. In the light of the averments made in the affidavit in support of the notice of motion, the exparte order dated 22.8.2005 is set aside. Summons for Judgment No.417 of 2004 is forthwith taken up for hearing and final disposal.

3. I have heard the parties.

4. In the present suit which is based on Bill of Exchange, the defendant no.1 is sued in the capacity of

partner of H.P. Farms, whereas the second defendant who is the son of the deceased has been sued in his capacity as a legal heir and representative. After hearing the parties for some time, the learned counsel for the defendants has stated that he will deposit in this Court a sum of Rs.40,000/- within a period of 12 weeks from today. If such amount is so deposited, there shall be leave to defendants to defend the suit and Suit will be transferred to the List of Commercial causes.

5. In any event, the amount is not so deposited, the plaintiffs shall be entitled to a decree. If the amount is deposited, the Prothonotary & Senior Master, High Court, Bombay is directed to invest the same in a fixed deposit initially for a period of three years and renew the same till further orders. If the amount is deposited than the defendants to file written statement within four weeks from the date of deposit. Inspection and discovery within four weeks thereafter and Suit to be placed before the learned Judge taking Commercial Causes in usual course.

6. Notice of motion as well as Summons for Judgment both disposed of accordingly.

(S.U. KAMDAR,J.)